

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cr. No. 04-1849 JH

DAVID LEE TURNER,

Defendant.

MEMORANDUM OPINION AND ORDER

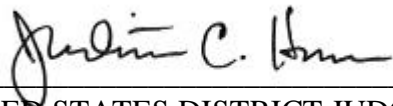
This matter comes before the Court on Defendant's *Motion to Suppress Evidence* [Doc. No. 34]. After a thorough review of the motion, the government's response, and the applicable law, the Court finds that the motion should be denied.

Defendant's motion is perfunctory, containing no specific allegations regarding the facts of the case or the basis for his contention that his Fourth Amendment rights were violated. Defendant contends merely that (1) he was the operator of a tractor-trailer near Alamogordo, New Mexico, (2) he stopped at a checkpoint, at which point canine "drug dogs" alerted, and (3) federal agents searched his truck and discovered contraband. None of these facts are in dispute.

The defendant in a criminal case who wishes to suppress evidence bears the burden of showing that there are material facts in dispute, and an evidentiary hearing is required only when the motion to suppress "raise[s] factual allegations that are 'sufficiently definite, specific, detailed, and nonconjectural to enable the court to conclude that contested issues of fact going to the validity of the search are in issue.'" *United States v. Chavez-Marquez*, 66 F.3d 259, 261 (10th Cir. 1995) (quoting *United States v. Walczak*, 783 F.2d 852, 856 (9th Cir. 1986)).

Defendant's motion to suppress and the accompanying one page memorandum brief contain no factual allegations going to the issue of whether his Fourth Amendment rights were violated, let alone factual allegations that are "definite, specific, detailed, [or] nonconjectural." Defendant has chosen to leave this court and the United States to speculate as to the factual basis for his motion to suppress. The law does not require such guesswork. Accordingly, under the Tenth Circuit's reasoning in *Chavez-Marquez*, it is not necessary to conduct a hearing on the motion.

IT IS THEREFORE ORDERED that Defendant's *Motion to Suppress Evidence* [Doc. No. 34] is DENIED.


UNITED STATES DISTRICT JUDGE